IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5373 of 2005
Date of decision: 31.7.2007

Harbhajan Singh Sagoo ...Petitioner

Versus

Bharat Sanchar Nigam Limited and another ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE S. N. AGGARWAL

Present: Mr. Balbir Singh, Advocate,
for the petitioner.

Mr. Anil Rathee, Advocate for
B.S.N.L.

K.S.GAREWAL, J.

Harbhajan Singh Saggo joined P&T Department as Telephone Operator in 1963. The said department was merged with Bharat Sanchar Nigam Limited (BSNL) on October 1, 2000 and the petitioner was permanently absorbed. The petitioner voluntarily retired as Divisional Engineer from BSNL on September 1, 2001.

The petitioner was thus a retired employee of BSNL. Both he and his wife Harbans Kaur had to undergo medical treatment, after the petitioner's retirement. The question in this petition is with regard to the rejection of their medical reimbursement claim.

According to the petitioner, medical claims of DOT employees were governed by the Central Government Health Scheme in the major

cities but in other parts of the country the claims are governed by the Central Services (Medical Attendance) Rules, 1944 (CSMA). Since Central Government health schemes were not available in the lesser cities, the petitioner pleaded that after the merger of DOT with BSNL until rules and regulations were finalized, the existing rule would be applicable. In Rule 16 it was provided that existing medical benefits would continue in BSNL till alternative arrangements were made.

The petitioner's wife Harbans Kaur was a patient of angina since 1993 and she was on oral medicines. She underwent coronary angiography at Escort Heart Institute and Research Centre, New Delhi where she remained as an indoor patient from February 4 to 6, 2003. Expenditure of Rs. 1,57,985/- was incurred by the petitioner. The petitioner himself had also undergone heart check up at Escorts, New Delhi on February 6, 2003 and spent Rs. 1750/- Thereafter, he too underwent angiography at Escorts, New Delhi on February 20, 2003 and spent Rs. 18,000/-.

On March 4, 2003, the petitioner had to undergo Coronary Artery Bypass Grafting (CABG) at Escort. He was discharged on March 14, 2003 and spent Rs. 1,99,460/-. He was re-admitted in the Escort on March 17, 2003 and after treatment he was discharged on March 21, 2003 and spent Rs. 22,365/-. On return to Ludhiana, he again fell ill and was admitted to D.M.C. on March 26, 2003 and spent Rs. 11,259/-. The petitioner's claim of medical reimbursement was allowed for his own medical treatment after February 24, 2003 but not for his wife's treatment before that date.

It is apparent from the above narration that while the

petitioner's main expenses were reimbursed, the expenditure for treatment of his wife of Rs. 1,57,985/- incurred before February 24, 2003 and also two items of expenses for his on treatment of Rs. 1750/- and Rs. 18,000/- incurred before the cut off date have not been paid to him. Thus, total sum of Rs. 1,77,735/- remained due since February 2003.

The written statement filed by the respondents relies on the medical policy introduced by the BSNL from February 24, 2003 and specifically reject the petitioner's claim incurred before that date. The said policy had come into force on February 24, 2003 and the copy of the BSNL Employees Medical Reimbursement Scheme (BSMRS) is Annexure P/5.

The petitioner contends that his case cannot be left in the limbo. If his case is not covered by the new BSNL Scheme then it must be covered under the old rules. These are contained under the instructions dated June 5, 1998 Annexure P/1 and relates to Civil Services Medical Attendance Rules 1944 to the pensioners residing in areas not covered by the Central Government Health Scheme. The intention of the rules is that the petitioners be given medical facilities by the Government in their old age when they required these the most.

The petitioner's reimbursement claim was first rejected by the Chief Accounts Officer, GMT, Sangrur on March 23, 2004 (Annexure P/8). The petitioner made a representation referring to the directions of the Health Ministry dated June 5, 1998 but the Chief Accounts Officer stuck to his legal stand and again rejected the claim.

How strange it is that BSNL employees can only get medical reimbursement of expenses if they fall ill after February 24, 2003 because before that date there was no reimbursement policy. The petitioner and his

wife were both heart patients. The wife was treated before the scheme became operational while the petitioner was treated after the scheme came into force. The petitioner's personal claim was paid but claim for his wife's treatment was rejected.

Disease does not always strike after notice, nor can the patient tell the disease to wait for a few week until a medical policy is framed. The stand taken by the respondents was irrational and insensitive to the travails of its former employee. Such irrationality has no place in a welfare state.

The petitioner's claim is not false or bogus. If he had information in advance that the BSNL was going to act in such a heartless manner he may have waited to get his wife treated, or ask the doctor to postpone treatment until after February 24, 2003. The rejection of the petitioner's claim simply cannot be permitted.

Consequently, this petition is allowed, the impugned orders dated November 21, 2003 (Annexure P/8) and order dated September 9, 2004 (Annexure P/11) are quashed. The petitioner shall be paid the outstanding medical claim of Rs. 1,77,735/- with interest at the rate of 10% from the date of presentation of the bills (July 15, 2003) till payment thereof. The petitioner shall also be entitled to Rs. 10,000/- as costs.

(K.S. GAREWAL)
JUDGE

31.7.2007 **(S.N. AGGARWAL)**
prem **JUDGE**